



## NEWS REPORT

**Date:** 21 September 2011  
**Expert :** Corina Demetriou  
**Title:** Equality Body reports on mental disability discrimination  
**Country:** Cyprus

### Context

**Issue at stake:** Refusal of the Ministry of Finance to grant public assistance contested before the Equality Body

**Ground of discrimination:** Disability

**Source:** Equality Body report dated 24.07.2011, Ref. AKR 95/2009

**Field:** Access to services

**Legislative provisions:** The Combating of Racial and Other Forms of Discrimination (Commissioner) Law N. 42(I)/2004 (article 6); the Constitution (Articles 9 and 28); the Law on Persons with Disability N. 127(I)/2000; the Fundamental Rights Charter (Article 21); the Treaty of the European Communities (Article 13); the Communication of the European Commission of November 2011 on the new European Strategy on Disability covering the period 2010-2020; and the UN Convention on the Rights of Persons with Disabilities (articles 1 and 9).

### Content

**Case:** The Equality Body examined a discrimination complaint submitted by the President of the Association of Parents of Retarded<sup>1</sup>

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<sup>1</sup> The term 'retarded' is a literal translation of the Greek term 'υστέρηση', which is widely used in Cyprus and in the equality body report examined. The author chose not to use this term in this flash report, preferring instead the term 'mental disability', except where the term 'υστέρηση' (=retardation) was used in the Equality Body's text to describe a particular organization or legislation bearing this term in its title.

Persons, which challenged the refusal of the Ministry of Finance to grant public assistance to persons with mental disability for: (a) travelling for the purpose of visiting doctors, attending events, entertainment and sports; (b) for buying a car; (c) for transfer to schools, day care centers or their workplace; (d) subsidizing fuel for travelling.

The complainant argued that the non-provision of these grants amounts to unequal treatment of persons with mental disability compared to persons with other types of disability.

The complainant also sought clarifications on the policy regarding the administration of the estate of children with mental disability especially after their parents' death.

In response to the complaint, the Ministry of Finance stated that State grants for buying a car are discretionary (based on an opinion of the Attorney General dated 19.08.86), and can only be granted in very exceptional cases where there is no legislation regulating the issue and where there is a special problem and a moral obligation to pay such grant or where it would be unfair not to grant it. The Ministry further noted that a discretionary grant for buying a car is paid to families with children with disability aged under 18, after obtaining a socioeconomic report from the Social Welfare Services and that persons with a mental disability who have mobility problems and use a wheelchair are already covered by the said policy for grants. As regards the subsidy for fuel, the Ministry stated that no such grant is paid so no issue of discrimination arises. In response to the claim for a grant to cover transfers to schools, day care centers etc, the Ministry of Labour (to whom the claim was communicated from the Ministry of Finance) stated that it will examine the possibility of extending the current scheme. On the issue of the administration of the estate and the guardianship of persons with mental disability, the Committee for the Protection of Mentally Retarded Persons is currently promoting a bill to amend the relevant legislation<sup>2</sup> so that persons with mental disability will be granted legal capacity unless a scientific evaluation deems this to be impossible in view of a person's mental abilities, in which case the bill provides for supported decision-making and guardianship of that person.

**Decision of the Equality Body:** In setting out the legislative framework, the report referred to: Article 9 of the Constitution, which guarantees the

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<sup>2</sup> Law on the Protection of Mentally Retarded Persons N.117/89.

right to dignified living and social security; Article 28 of the Constitution which establishes the principle of equality and non-discrimination; the Law on Persons with Disability N. 127(l)/2000 which provides for the right to equal treatment and non discrimination (article 3) and to the right to independent living, participation in economic and social life, to accessible public transport, to personal and family life, to social, cultural, athletic and other activities and to a dignified standard of living; Article 21 of the Fundamental Rights Charter; Article 13 of the Treaty of the European Communities; the Communication of the European Commission of November 2011 on the new European Strategy on Disability covering the period 2010-2020; the CJEU decision in the case of *Coleman*<sup>3</sup>; and the UN Convention on the Rights of Persons with Disabilities (articles 1 and 9). In the concluding remarks, the report states that persons with mental disability are a particularly vulnerable group, hence the need to remove obstacles and to introduce supportive measures in order to complement and develop their autonomy, pointing out that support and assistance must also be extended to their carers. The report recommends that the Scheme of Transport Assistance is extended to include persons with mental disability and that a general grant is paid to facilitate the transportation and transfer of these persons to their schools, day care centers and other places.

**Internet link source:** The link to this report which exists on the Equality Body's website does not work

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<sup>3</sup> *Coleman v. Attridge Law*, ECJ Case C-303/06